

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

Return Date: February 10, 2015
Time: 10:00 a.m.

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In re

Chapter 13

CYNTIA G. SUAREZ

Case No.: 114-41319-608

Debtor(s)

NOTICE OF MOTION

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SIR / MADAMS:

PLEASE TAKE NOTICE, that MICHAEL J. MACCO, Chapter 13 Trustee of the above-captioned estate, will move before the Honorable Carla E. Craig, United States Bankruptcy Judge on the 10TH day of FEBRUARY, 2015, at 10:00AM, at the United States Bankruptcy Court, located at the 271 Cadman Plaza East – Courtroom 3529, Brooklyn, New York 11201, for an Order pursuant to the provisions of 11 U.S.C. §1307(c) dismissing this case by reason of the debtor(s)' failure to offer a feasible Plan, and for such other and further relief as this Court deems just and proper.

PLEASE TAKE FURTHER NOTICE that objections, if any, must be served on the Trustee and filed with the Court no later than three (3) days prior to the return date herein.

Dated: Melville, New York
January 16, 2015

Yours, etc.

MICHAEL J. MACCO
Chapter 13 Trustee
135 Pinelawn Road – Suite 120 South
Melville, New York 11747
(631) 549-7900

To: *Office of the United States Trustee*
Cyntia G. Suarez, Debtor
Norma E. Ortiz, Attorney for Debtor(s)

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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In re

Chapter 13

CYNTIA G. SUAREZ

Case No.: 114-41319-608

Debtor(s)

APPLICATION

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TO THE HONORABLE CARLA E. CRAIG, UNITED STATES BANKRUPTCY JUDGE:

MICHAEL J. MACCO, Chapter 13 Trustee in the above captioned estate,
respectfully represents as follows:

1. The debtor(s) filed a petition under the provisions of 11 U.S.C. Chapter 13 on March 21, 2014, and thereafter MICHAEL J. MACCO was duly appointed and has qualified as Trustee.
2. The debtor(s)' plan was confirmed by Order of this Court on June 16, 2014.
3. The debtor(s)' plan provides payment to your Trustee in the sum of \$600.00 a month, for a period of three (3) months, and \$1,400.00 a month, for the remaining fifty-seven (57) months.
4. The debtor(s) has failed to file a feasible plan, with a shortage of \$9,449.05, in that, the amount of claims filed in this case exceed the total amount of plan payments to be made to the Trustee.
5. In addition, on the 2nd day of December, 2014, a letter was sent to the debtor(s), and a copy sent to the debtor(s) attorney, Norma E. Ortiz, informing them of the lack of feasibility in the Chapter 13 Plan (*see attached Exhibit A*).
6. Moreover, on the 6th day of January, 2015, a second request letter was sent to the debtor(s), and a copy sent to the debtor(s)' attorney, Norma E. Ortiz, regarding the plan feasibility (*see attached Exhibit B*).
7. That this is a material default and is prejudicial to the rights of the creditors of the debtor(s).

WHEREFORE, your Trustee prays for an Order pursuant to the provisions of 11 U.S.C. §1307(c), dismissing this case and for such other and further relief as this Court deems just and proper.

Dated: Melville, New York
January 16, 2015

/s/ **Michael J. Macco**
Michael J. Macco, Chapter 13 Trustee
135 Pinelawn Road – Suite 120 South
Melville, New York 11747
(631) 549-7900

Exhibit A

MICHAEL J. MACCO
U.S. Standing Bankruptcy Trustee
135 Pinelawn Road
Suite 120 South
Melville, New York 11747
<http://maccochapter13trustee.com>

Telephone (631) 549-7908
Facsimile (631) 549-7845

Peter Corey

December 2, 2014

Ortiz & Ortiz
c/o Norma E. Ortiz
127 Livingston Street
Brooklyn, NY 11201

Re: Chapter 13 – 14-41319

Dear Sir/Madam:

The last day to file claims has passed and the proofs of claims filed indicate that your case cannot be completed within the 60 months set forth in the Plan. At the present time your Plan is short approximately \$2,305.49.

Please make a motion to modify your Plan or make a lump sum payment for said sum. Your failure to bring a motion to modify your Plan will result in a Motion to Dismiss this case being brought by my office for lack of feasibility.

Please be advised this letter supersedes any other letters regarding this matter sent prior.

Your prompt attention to this matter is appreciated.

Very truly yours,

MICHAEL J. MACCO

cc: Cyntia G. Suarez
43-15 163rd Street
Flushing, NY 11358

Exhibit B

MICHAEL J. MACCO
U.S. Standing Bankruptcy Trustee
135 Pinelawn Road
Suite 120 South
Melville, New York 11747
<http://maccochapter13trustee.com>

Telephone (631) 549-7908
Facsimile (631) 549-7845

Peter Corey

December 2, 2014

Second Request

January 6, 2015

Ortiz & Ortiz
c/o Norma E. Ortiz
127 Livingston Street
Brooklyn, NY 11201

Re: Chapter 13 – 14-41319

Dear Sir/Madam:

The last day to file claims has passed and the proofs of claims filed indicate that your case cannot be completed within the 60 months set forth in the Plan. At the present time your Plan is short approximately \$2,550.55.

Please make a motion to modify your Plan or make a lump sum payment for said sum. Your failure to bring a motion to modify your Plan will result in a Motion to Dismiss this case being brought by my office for lack of feasibility.

Please be advised this letter supersedes any other letters regarding this matter sent prior.

Your prompt attention to this matter is appreciated.

Very truly yours,

MICHAEL J. MACCO

cc: Cyntia G. Suarez
43-15 163rd Street
Flushing, NY 11358

STATE OF NEW YORK)
COUNTY OF SUFFOLK) ss.:

SANIYYAH S. GREENE, being duly sworn, deposes and says: deponent is not a party to the action, is over 18 years of age and resides in Suffolk County, New York.

On January 16, 2015, deponent served the within:

NOTICE OF MOTION AND APPLICATION

upon the following parties, at the addresses designated by said parties for that purpose, by depositing a true copy of same, enclosed in a post-paid properly addressed wrapper in an official depository under the exclusive care and custody of the United States Postal Service within the State of New York:

*Office of the United States Trustee
US Federal Office Building
201 Varick Street, Suite 1006
New York, NY 10014*

*Cyntia G. Suarez
43-15 163rd Street
Flushing, NY 11358*

*Ortiz & Ortiz, LLP
c/o Norma E. Ortiz
32-72 Steinway Street, Suite 402
Astoria, NY 11103*

/s/ Saniyyah S. Greene
SANIYYAH S. GREENE

Sworn to before me this
16th day of JANUARY, 2015

/s/ LONI BRAGIN
NOTARY PUBLIC
Loni Bragin
Notary Public, State of New York
No. 01BR6172194
Qualified in Suffolk County
Commission Expires August 6, 2015